

**Tulare Lake Basin Water Quality Coalitions**

Buena Vista Coalition  
Cawelo Water District Coalition  
Kaweah Basin Water Quality Association  
Kern River Watershed Coalition Authority  
Kings River Water Quality Coalition  
Tule Basin Water Quality Coalition  
Westside Water Quality Coalition

**Sent Only by Email**

December 20, 2018

Ms. Susan Fregien  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

**RE: Comments on Proposed Changes to the Waste Discharge Requirements General Order for Growers within the Central Valley That are Members of a Third-Party Group, Tulare Lake Basin Area R5-2013-0120-05**

Dear Ms. Fregien,

The above listed Tulare Lake Basin (TLB) Irrigated Lands Regulatory Program (ILRP) Coalitions appreciate the opportunity to comment on proposed revisions to the Waste Discharge Requirements General Order for Growers within the Central Valley That are Members of a Third-Party Group, Tulare Lake Basin Area R5-2013-0120-05. Below are comments regarding the proposed changes for consideration by the Regional Water Quality Control Board on February 7-8, 2019. For ease of reference, the citation of the specific page and section of the Waste Discharge Requirements (WDR) General Order is included.

*\*Note all page numbers listed as a reference in these comments come from the printed PDF version of the Tentative Draft of General Order R5-2013-0120-07.*

**ITEM 1**

**WDR Page 24, Section IV.C.8.C**

New language has been added which reads *"By 1 June 2019 the third-party shall propose an approach for defining a set of Members (outliers) with whom the third-Party will follow up annually based on INMP summary Report data (AR data). The approach is to be approved by the EO after public notice and comment. This approach may be proposed either solely or in conjunction with other third-party entities."*

As currently drafted, the requirement to have an approach for defining outliers due for completion by 1 June 2019 would require coalitions to turn in a completed approach 9 months prior to the new INMP

being used (started)(for both low and high vulnerability members). WDR Section VII.D.1-2 (P. 32) states that all members in both high and low vulnerability areas shall prepare (complete) an INMP by 1 March 2020. Given that the TLB Tentative Draft of General Order R5-2013-0120-07 is not slated for approval until early 2019, this would provide less than 6 months for coalitions to develop a methodology and would be required a year prior to obtaining INMP Summary Report data to use for identifying outliers. Region 5 coalitions would prefer to collectively develop this approach but will need additional time to work out the details. Please provide more time for this work to be accomplished, perhaps by end of 2019 to be consistent with the East San Joaquin General Order (ESJ GO) timeline.

In addition, the following language regarding outlier methodology selection comes from Section 5. Nitrogen Management Plans, Item F. Required Follow-Up within the “In the Matter of Review of Waste Discharge Requirements General Order No. R5-2012-0116 for Growers Within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group” and should be included in the TLB Draft General Order.

*“Outliers will be identified by the Third Party annually based on the INMP Summary Report data submitted for that particular year. Eventually, it is our expectation that outliers will be determined with reference to the ranges for the multi-year A/R ratio and A-R difference target values developed by the Third Party and the Central Valley Water Board. At this early stage, we recognize that the limited data available, as well as the variation in conditions from field to field and from year to year, mean that any definition of outliers is imperfect. We will not specifically define the term in Appendix A, Modified Eastern San Joaquin Agricultural General WDRs, but will direct the Third Party to propose an approach and the Central Valley Water Board Executive Officer to approve that approach, after public notice and comment, that defines a set of Members with whom the Third Party will follow up. The Third Party may choose to apply that approach annually for a period of years to determine outliers, or the Third Party may propose and seek approval of a different approach each year. Our view of the data collected so far by the Third Party indicates that different methods of assigning outliers may be needed as different crops are considered, as there appears to be no single approach that is appropriate across all crop types.”*

## **ITEM 2**

### **WDR Page 28, Section VII.B**

New language has been added which reads "By 1 March 2016 and annually through 2018, all Members must prepare a Farm Evaluation and submit it to the third party..."

The current General Order requires only farms located on HVAs (annually), large low vulnerability farms (2016) and small low vulnerability farms (2018) to submit a farm evaluation in 2016-2018, not ALL Members (see table below). This statement should be corrected to reflect current requirements.

**Table of reporting requirements based on the TLB General Order Revision 5, WDR P. 26, Section VII.B:**

Report	Vulnerability	Farm Size	Due Date	Recurring Due Date
Farm Evaluation	High	All	1 March 2016*	Annually
	Low	Large (≥60 acres)	1 March 2016	Every 5 years (due again in 2021)
		Small (<60 acres)	1 March 2018	Every 5 years (due again in 2023)

\*EO approved a 1-year extension of the March 1, 2015 due date.

### **ITEM 3**

#### **WDR Page 32, Section VII.D.3**

Exceptions to Nitrogen Reporting Requirements language has been inserted but is only included by reference. The Regional Board should insert the exceptions from the ESJ GO directly into the text rather than only by reference. Members regulated under the TLB General Order are not expected/required to be familiar with the requirements of another General Order. Therefore, the inclusion of all language directly, rather than by reference, is appropriate.

Specific language from the State Water Board Order WDR Section VII.D to include:

- Page 27, stating, “Finally, we acknowledge, as further discussed in section II.A.5 below, that there may be uniquely-situated categories of growers for whom the requirement for nitrogen reporting is inappropriate. Our order revisions allow a category of growers to be exempted from the nitrogen applied and removed reporting requirements subject to a demonstration that applied nitrogen is not expected to seep below the root zone in amounts that could impact groundwater and is further not expected to discharge to surface water.”
- Pages 34-35, “We recognize that there may be categories of uniquely-situated growers for whom the specific nitrogen management requirements made precedential in the following sections of this order are unnecessary because applied nitrogen is not expected to seep below the root zone in amounts that could impact groundwater and is further not expected to discharge to surface water. Any category of Members (such as growers of a particular crop or growers in a particular area) seeking to be exempted from the precedential nitrogen management requirements in the following sections of this order shall make a demonstration, for approval by the relevant regional water board, that nitrogen applied to the fields does not percolate below the root zone in an amount that could impact groundwater and does not migrate to surface water through discharges, including drainage, runoff, or sediment erosion. These criteria for determining categories of growers that may be exempted from the nitrogen management requirements shall also be precedential statewide. In addition to growers that are exempt from all of the precedential nitrogen management requirements as stated above, there are categories of growers that the regional water boards may exempt from limited portions of the nitrogen management requirements or allow additional time to implement the requirements.”
- Pages 40-41, “We recognize that there are some circumstances in which the burden of reporting R may not be justified or may pose unique challenges because of difficulties in measuring yield, or where specialized outreach activities in multiple languages are warranted. It may be appropriate to allow additional time in these circumstances for development of alternatives and multilingual outreach. The regional water boards shall have discretion to determine that some or all growers in the following categories will have alternative requirements as specified: 1. Growers that (1) operate in areas with evidence of no or very limited nitrogen impacts to surface water or groundwater, (2) have minimal nitrogen inputs, and (3) have difficulty measuring yield, may report the A value only. The regional water board may exercise its discretion as to when, if at all, these growers will begin reporting R. An example of this grower category could be irrigated pastures. 2. Diversified socially disadvantaged growers, as defined by the Farmer Equity Act of 2017, 117 with (1) a maximum total acreage of 45 acres, (2) gross annual sales of less than \$350,000, and (3) a crop diversity greater than 0.5 crops per acre (one

crop for every two acres), may initially report the A value only. The regional water board may exercise its discretion as to when these growers will begin reporting R and may accept alternative methodologies for estimating R. The regional water board may exercise its discretion as to whether these growers must receive targeted self-certification training. 3. Growers with (1) a maximum total acreage of 20 acres, and (2) a crop diversity greater than 0.5 crops per acre (one crop for every two acres), may initially report the A value only. The regional water board may exercise its discretion as to when these growers will begin reporting R and may accept alternative methodologies for estimating R. This category would include, for example, small growers with multiple crops that sell their crops primarily at farmers' markets."

#### **ITEM 4**

##### **WDR Page 33, Section VII.D.3, footnote 44, deletion**

Footnote 44 on page 33 has been deleted. The footnote previously read, "*The designation of the vulnerability area may change based on updates to the GAR.*" It is unclear why this footnote was deleted. The ability to modify HVAs in GAR updates should remain in the WDR.

Please don't hesitate to contact me should you have any questions regarding these comments.

Sincerely,



Nicole Bell, Manager  
Kern River Watershed Coalition Authority  
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